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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/783,812 | 02/20/2004 | Barry Gammon | GAM-001CON | 7060 |
| 35557 | 7590 | 07/21/2005 | EXAMINER | |
| CHRIS A. CASEIRO VERRILL DANA, LLP ONE PORTLAND SQUARE PORTLAND, ME 04112-0586 | | | SHAKERI, HADI | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3723 | |

DATE MAILED: 07/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

10/783,812

Applicant(s)

GAMMON, BARRY

Examiner

Hadi Shakeri

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
 Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
 Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. Regarding claim 1, the limitation "and does not extend above the first face" as recited in the last line, renders the claim indefinite for making the scope unascertainable. The claim does not set forth or define "above" or "below" in reference to the structure or the socket claimed. Further "above" would depend on the orientation of the socket claimed, e.g., the socket as disclosed in Fig. 2 of Higgins (GB '257) applied to a nut in a sink (like Fig. 2 of the instant Application) would have a port not extending "above" the first face (the face not including the port) and if applied to a workpiece like a nut projecting from a floor, would have a port extending "above" the first face. The language as recited is indefinite.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

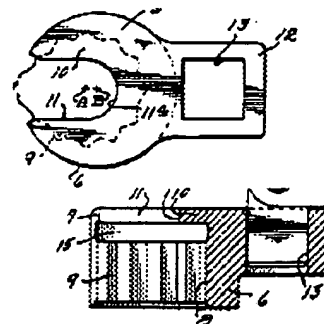
A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1 and 2 (as best understood) are rejected under 35 U.S.C. 102(b) as being anticipated by Johnson, US Patent No. 2,715,347.

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Johnson discloses all the limitations, i.e., a socket having a center line (B) and a perimeter (Fig. 3), first face (bottom face as shown in Figs. 2 and 4), an opposite second face, and a receiving slot extending from the first face towards the second including a receiving region (8) adjacent to the first face (first face separated from the second face by web 10) having a center line (A) offset from (B) and includes a step (defined by 10 or 15) against which the connection element rests during rotation of the socket body, and wherein the second face includes a port (13) that does not extend to the first face, having a center line that is not in alignment with the socket body positioned within the perimeter of the socket body.



Regarding claim 2, Johnson meets the limitations.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

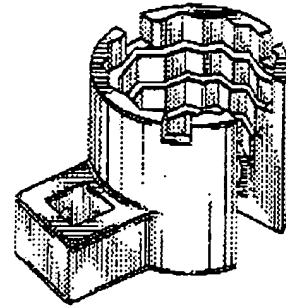
7. Claims 3-6 (as best understood) are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson in view of Farnan et al., US Patent No. Des. 376,521.

Johnson meets all the limitations of the claims except for stepped polygonal and rounded configurations, and wing slots. Farnan et al. teaches stepped polygonal configurations having wing slots. It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to modify the invention of Johnson with the polygonal stepped

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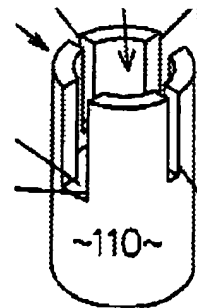
configuration and wing slots as taught by Farnan et al. to adapt the tool for driving different sized fasteners and fasteners having wings.

Regarding the rounded configuration claim 5, It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the receiving section rounded instead of polygonal for wing nuts having rounded head, since it has been held that changing shape, dependent on work-piece parameters, involves only routine skill in the art. *In re Stevens*, 101 US PQ 284(CCPA1954).



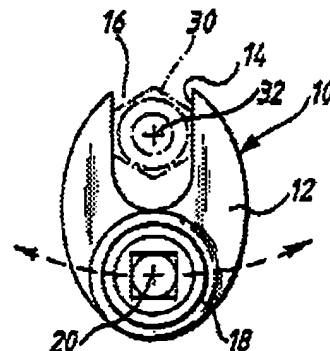
8. Claims 4, 5 (as best understood) are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson in view Makovsky et al., US Patent No. 5,697,268.

Johnson meets all the limitations of the above claims except for wing slots and rounded configurations. Makovsky et al. teaches wing nut driver having slots. It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to modify the invention of Johnson with the configuration and wing slots as taught by Makovsky et al. to adapt the tool for driving fasteners having wings.



9. Claims 1-6 (as best understood) are rejected under 35 U.S.C. 103(a) as being unpatentable over Higgins (GB 2 266 257) in view Farnan et al.

Higgins meets all the limitations of the claim 1, i.e., a socket having a center line and a perimeter, first face and an opposite second face, and a receiving slot extending from the first face towards the second including a receiving region



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adjacent to the first face having a center line that is not in alignment with the centerline of the socket body (Fig. 1) and wherein the second face includes a port (24) that does not extend to the first face of the socket body, the port having a center line that is not in alignment with the center line of the socket body, except for a step against which the connection element rests during rotation of the socket body. Faman et al. teaches stepped polygonal configurations having wing slots. It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to modify the invention of Higgins with the polygonal stepped configuration and wing slots as taught by Farnan et al. to adapt the tool for driving different sized fasteners and fasteners having wings.

Regarding claims 2-4 and 6, Higgins as modified by Foeman et al. meets the limitations.

Regarding the rounded configuration, claim 5, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make the receiving section rounded instead of polygonal for wing nuts having rounded head, since it has been held that changing shape, dependent on work-piece parameters, involves only routine skill in the art. *In re Stevens*, 101 US PQ 284(CCPA1954).

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Response to Arguments

11. Applicant's arguments filed 05/02/05 have been fully considered but they are not persuasive. The argument against Johnson that it does not provide a step in the receiving region is not persuasive, since the lip or step formed by (11a) as shown in Figs. 2 and 4 clearly meets the limitation. The argument that the port is not part of the socket body is not persuasive, since as was indicated in the previous Office Actions, the port as disclosed by Johnson is considered to be part of the body and not a separate piece and applicant fails to point out what part of the claim recitation is not met, except for maintaining the argument that Applicant does not agree that the port is part of the body. The Declaration under 37 CFR 1.132 filed in the parent is insufficient to overcome the rejection of claims 1 and 2 based upon Johnson as set forth in the last Office action because: Johnson is applied as anticipating the claims under 35USC 102(b) and as such cannot be overcome by arguments and/or showings regarding long felt need, unexpected results, mechanical advantages for a specific application....

In response to the arguments against the 103 rejections, it is noted that one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the

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knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Johnson is modified in view of Farnan et al. to adapt the tool for driving different sized fasteners and fasteners having wings; and Johnson is modified in view of Makovsky et al. to adapt the tool for driving fasteners having wings.

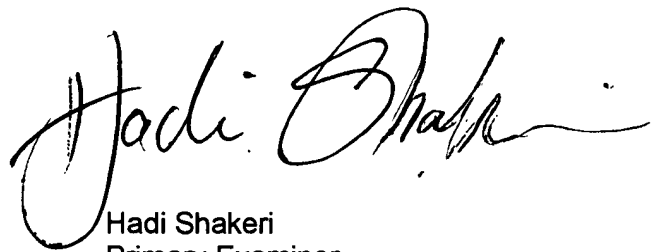
With regards to the argument against Higgins modified in view of Farnan et al., that the socket (24) is not part of the socket body, it is noted again that socket (24) or the driver port is considered by the Examiner to be part of the socket body as defined by the claim language, and that it is not a separate piece independent of the socket. Applicant states that Higgins discloses that the attachment (10) may be forged in a single piece or that the connection (18) may be separate piece welded to the body of the socket. In either case, i.e., attachment being forged in a single piece or (18) welded to the body, the claim limitations are met, i.e., the port being part of the body. The references to a "basin" wrench do not further limit the tool as claimed, so the argument that neither Higgins nor Farnan disclose a basin wrench is irrelevant. Higgins is modified in view of Farnan to include steps for workpieces of different sizes.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hadi Shakeri whose telephone number is (571) 272-4495. The examiner can normally be reached on Monday-Friday.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Hadi Shakeri". The signature is fluid and cursive, with a long horizontal stroke at the end.

Hadi Shakeri
Primary Examiner
Art Unit 3723
July 19, 2005